

# Hegel on the State

A commentary on the last section of *The Philosophy of Right*

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## §1. The State is the march of God on Earth.

The State is the crowning concept of the *Philosophy of Right*, the realisation of Freedom and the basic unit of World History, with supreme Right as against the individual.

“The state is the actuality of the ethical Idea. It is ethical mind ... knowing and thinking itself, accomplishing what it knows .... The state exists immediately in custom, mediately in individual self-consciousness, knowledge, and activity, while self-consciousness ... finds in the state, as its essence and the end-product of its activity, its substantive freedom.” (§257)

and:

“The state is absolutely rational inasmuch as it is the actuality of the substantial [and] ... has supreme right against the individual, whose supreme duty is to be a member of the state.” (§258)

and:

“The march of God in the world, that is what the state is.” (§258ad.)

but:

“The state is no ideal work of art; it stands on earth and so in the sphere of caprice, chance, and error, and bad behaviour may disfigure it in many respects. But the ugliest of men, or a criminal, or an invalid, or a cripple, is still always a living man.” (§258ad.)

It is very likely that the modern reader will have great difficulty in swallowing this. But Hegel's Germany was not the Germany of Bismarck, Hitler or Merkel, but more like the Vietnam of Ho Chi Minh with Kant and Beethoven thrown in. The “State as the realisation of Freedom” has to be seen in this light.

But the real gap between a progressive modern attitude to the State and Hegel's is that Hegel in no way saw the State as “an organ of class rule, an organ for the oppression of one class by another” (Lenin, 1917), as Marx and Engels (1848, 1884) and most readers of this would see it.

## State as Moderator of Class Struggle

Insofar as the State was used as a weapon of a feudal nobility against the bourgeoisie (which was still the main axis of class struggle in Hegel's day), Hegel would have seen this as either a deformation of the state or a symptom of a state which was still not worthy of the name of ‘State’ at all. Suppression of riots, crime and other disorders was a function of Civil Society, not the State, and which Hegel would have seen in the frame of ‘social problems’, not political challenges.

We have recalled how Hegel insists that the historical origins of the State are “no concern of the Idea of the State,” that the State may have originated in violence, but its *raison d'être* and concept was Freedom. Along the same lines, he notes that “Town and country constitute the two moments, still ideal moments, whose true ground is the state, although it is from them that the state springs” (§256n) and “The family is the first precondition of the state, but class divisions are the second” (§201ad.). This implies that

the State arises as a solution for the class struggle between the agricultural class, i.e., the nobility, and the business class, i.e., the bourgeoisie. But the point is that this phase of the State is to be transcended, and the essential meaning of the State is *unity*, specifically, the unity of the single individual and the universal. This is the meaning of: “the family was the first, so the Corporation is the second ethical root of the state” (§255). It is self-evident that class conflict and atomisation (“the civil life of business ... turns in upon itself, and pursues its atomising task” §256n.) which is a result of the market must be overcome, before the unity of the universal and individual can be attained. But Hegel is insistent that it is not the role of the State to moderate the conflict between members of Civil Society – that is a task of Civil Society itself:

“If the state is confused with civil society, and if its specific end is laid down as the security and protection of property and personal freedom, then the interest of the individuals as such becomes the ultimate end of their association, and it follows that membership of the state is something optional. But the state’s relation to the individual is quite different from this. Since the state is mind objectified, it is only as one of its members that the individual himself has objectivity, genuine individuality, and an ethical life. Unification pure and simple is the true content and aim of the individual, and the individual’s destiny is the living of a universal life.” (§258n.)

The State is meant to rest only lightly upon Civil Society, the embodiment of the universal self-consciousness of its citizens, the realisation of their Free Will, both in oversight of national affairs and in their action on the world stage.

### Internal and External Relations

The State acts as an Individual in relation to other states. Hegel allows that there can be alliances and treaties, but he absolutely rejects the idea of a World Government or some supra-national entity that has authority over a State. Every State has the right to make War, and the idea of a “perpetual peace” which Kant had proposed, was anathema to Hegel. In relation to internal matters, Hegel was a collectivist; in relation to external relations, Hegel was a libertarian. “The one and only absolute judge, which makes itself authoritative against the particular and at all times, is the in- and for-itself existing Spirit (*an und für sich seiende Geist*) which manifests itself in the history of the world” (§259n.).

But the State is not an absolute power.

The State has no business dabbling in religious matters. This separation of spheres also goes to Science, Art and Philosophy. Hegel counts all these pursuits as ‘higher’ than Right inasmuch as they are components of Absolute Spirit, which transcends Objective Spirit. The State has no business in restricting or directing the practice of Science or Art. The question of allocating funds for public pursuit of Science or Art had simply never arisen in Hegel’s times, but while the practice of these “modes of existence” were undoubtedly essential to humanity, it was equally essential that they flourished independently of civil and political life. (See §270 and its remarks and footnotes).

Conversely, Hegel is at pains to point out that the clergy has no place in affairs of State, and he likens the idea of “the unity of church and state” to “oriental despotism.” Churches are landowners and employers like any other actor in civil society and is subject to the same laws, and Hegel subsumes them under Corporations. He also

describes exclusion of Jews from civil rights as “folly.” The conclusion is clear: religious practice has no privileged place in political life.

The separation of powers is an essential principle in Hegel’s concept of the State. The State is an autonomous *organism* and its various ‘powers’ are organs in just the sense that the various organs of the body: each organ exclusively performs its specific function for maintenance of the whole organism. The unity of the whole is true irrespective of the fact that historically the components of the whole may have originated independently. In becoming organs of the State they are transformed:

“The state is an organism, i.e. the development of the Idea to the articulation of its differences. Thus these different sides of the state are its various powers with their functions and spheres of action, by means of which the universal continually engenders itself in a necessary way; in this process it maintains its identity since it is presupposed even in its own production. This organism is the constitution of the state; it is produced perpetually by the state, while it is through it that the state maintains itself. If the state and its constitution fall apart, if the various members of the organism free themselves, then the unity produced by the constitution is no longer an accomplished fact.” (§269ad.)

The internal and external powers of the State are united only in the Crown, and the first division of powers is that between the civil and military powers. Conflicts within Civil Society are the business of Civil Society and the military have no role there at all.

The other powers of the State are the components of the State’s Constitution: the Crown, the Executive and the Legislature. Note that the judiciary is *not* included here as a ‘power of the State’ because the judiciary is not part of this sphere – it belongs to Civil Society. Hegel never foresaw the possibility of the intervention of the Courts in conflicts between the powers of the State, which he saw as being resolved by negotiation.

Marxists have rejected the notion of separation of powers ever since Marx (1871) noted that the Paris Commune was “a working, not a parliamentary body, executive and legislative at the same time.” Personally, I don’t think this has worked out all that well, and it is worth re-assessing the doctrine of separation of powers in the light of Hegel’s argument.

## §2. The Crown.

Hegel’s idea of the State was a constitutional monarchy. The Prussia of his time was an *absolute* monarchy and all progressive people in Germany aspired to a constitutional monarchy, not a Republic such as existed in the United States.

Among EU nations today, Belgium, Denmark, the Netherlands, Spain, Sweden and Britain are constitutional monarchies and are hardly less perfect realisations of Freedom than Portugal, Bulgaria, Croatia, the Czech Republic, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Poland and Portugal. While the idea of socialism is patently incompatible with constitutional monarchy, it needs to be understood that (at least as Hegel saw it), a constitutional monarchy is the more perfect insofar as the monarch has *no political function* beyond placing his or her signature on legislation and participating in ceremonies of various kinds. Hegel’s model, as outlined in the *Philosophy of Right*, has not quite reached that point, but it is clear enough that this is the *concept* of constitutional monarchy. Hegel’s monarch remained Commander in Chief of the armed forces, but again, the concept of constitutional monarchy is that even

this role is entirely *symbolic*. Symbolism is something real, and in the matter of achieving the unity of the individual and the universal, it is of the utmost importance. It is of course precisely the symbolism that makes constitutional monarchy so repulsive to the socialist or otherwise radical social movement activist. This needs to be kept in mind in reading what Hegel has to say about the Crown.

### Constitutional Monarchy and the personification of the State

In Hegel's conception, the State is divided into three powers: the Legislature, which determines the Universal by making laws, the Executive, which determines Particular cases under the Universal, and the Crown — “the will with the power of ultimate decision ... the different powers bound into an Individual unity” (§273). The State thus reproduces the structure of the concept derived in the Logic, as the unity of Universal, Particular and Individual.

In relation to the Crown, there are two important issues: (1) Why the Crown must be an individual, not a committee or indeed an empty space, and (2) Why the Crown must be chosen by primogeniture from a noble family.

(1) I am not aware of any state – monarchy or republic, or even any organisation, which does not have a Head who is an individual, differing mainly by whether that individual normally plays a symbolic role or is a real commander-in-chief or somewhere in between. The only exceptions to this rule that I know of are protests and social movements which through immaturity, incapacity or as an ideological signal, refuse this individual moment of their self-concept. And Hegel explains why this must be so.

“this freedom which makes the ultimate self-determining certitude — the culmination of the concept of the will — the function of a single consciousness. This ultimate self-determination, however, can fall within the sphere of human freedom only in so far as it has the position of a pinnacle, explicitly distinct from, and raised above, all that is particular and conditional ... (§279n.)

“[This] is not to say that the monarch may act capriciously. As a matter of fact, he is bound by the concrete decisions of his counsellors, and if the constitution is stable, he has often no more to do than sign his name.” (§279ad.)

To be free, the State of which you are a member must be free, free to make decisions which are unquestionable and subject to no committee or such which would thereby usurp that decision. Even the Houses of the Legislature each have a Speaker who conveys messages to and from the Legislature. The Quakers make do with a Clerk and many voluntary organisation have a President or Secretary who merely formally conveys decisions, etc., but is not the *pinnacle*. But Hegel insists that this role of being the actual subject is seen as the pinnacle, since the monarch must unite not only a deliberative committee, but an entire nation.

The personality of the State is actual and the unity of the State secured only when it is a *natural person*. Absolute monarchies, from which constitutional monarchies originate, had this power of personality, but these States were subject to the whims and caprice of the monarch. But in the *mature*, stable State, the processes of decision-making have developed to such an extent that all necessary and possible deliberation has already taken place when the document is ready for signing — at least in normal, stable times. In exceptional times or times of crisis, the necessity of a natural person with the authority of the State is crucial. In such times the only rational decision procedure is for

a natural person with the highest possible standing and the best possible advice to make their decision. Hegel rejects all ideas of an ‘artificial person’ to take the place of the monarch (§279n.). The only guarantee is a Head of State whose development is tied up with the development of the whole nation and is symbolically identified with the whole nation.

Have you ever asked yourself what form the “withering away of the state” (Lenin 1917)? Does it not mean precisely the withering away of commanding or executive functions to merely symbolic or ceremonial ones? and not necessarily their *abolition*.

This brings us to (2) – why Hegel thinks that a monarch self-selected by primogeniture from the same noble family is the only rational determination of Head of State.

Hegel believes that a person representing the traditional owners of the land best fulfils the symbolic role of the Crown. That this person is wealthy and privileged is incidental; in Australia, it would be the senior Elder of the Ngunnawal people who would play that role. It is the deep identification with the land where the government sits which is important.

In principle, the monarch has no particular interest or talent:

“In a completely organised state, it is only a question of the culminating point of formal decision (and a natural bulwark against passion. It is wrong therefore to demand objective qualities in a monarch); he has only to say ‘yes’ and dot the ‘i’, because the throne should be such that the significant thing in its holder is not his particular make-up. ... Monarchy must be inherently stable and whatever else the monarch may have in addition to this power of final decision is part and parcel of his private character and should be of no consequence.” (§280ad.)

It is very important that nothing particular is required of the monarch and consequently that the monarch is selected by an ‘automatic’ process which is immune to particular interests, etc. Primogeniture, which forbids the monarch from choosing his or her own successor, is therefore the ideal means of determining the holder of the Crown:

“that the unity of the state is saved from the risk of being drawn down into the sphere of particularity and its caprices, ends, and opinions, and saved too from the war of factions round the throne and from the enfeeblement and overthrow of the power of the state.” (§281ad.)

And according to Hegel: “elective monarchy is the worst of institution” (§281n.) because it guarantees the primacy of particularity and ‘drags down’ the monarchy into ‘factions and opinions’.

The Australia Republic referendum debate manifested the popular prejudice that the Head of State must not be a ‘politician’ (and Hegel would agree) but at the same time there was a fervent desire that the Head of State must be *elected* by the ‘people’ and not the Parliament. This is of course confused. As to the notion of ‘the people’, Hegel says:

“... on the wild idea of the ‘people’. Taken without its monarch and the articulation of the whole which is the indispensable and direct concomitant of monarchy, the people is a formless mass and no longer a state. It lacks every one of those determinate characteristics — sovereignty, government, judges, magistrates, class-divisions, &c., — which are to be found only in a whole which is inwardly organised.” (§279n.)

Nonetheless, it is Hegel's idea that the Crown, as a natural person, can establish a direct relation to the people, a role which is inaccessible to the Executive and Legislature or *any* committee.

It is self-evident that a Constitutional Monarchy is unsuited to the kind of State to which readers of this would aspire, but we should not be too quick to dismiss the arguments by means of which Hegel has rationalised this institution.

### §3. The Executive, the Civil Service and the Public Authorities

Hegel mentions a "supreme council" which the Monarch appoints as his Counsellors. It is not entirely clear, but I think the concept intended is a Cabinet appointed on merit by the Crown, from the senior members of the Executive. This differs from the Westminster model in which the Cabinet is recommended to the Head of State by and from the Legislature, and is closer to the U.S. model, except that the Crown is not the Chief Executive like the US President, but plays a mainly ceremonial role.

The Executive is the Senior Civil Service, a self-appointed meritocracy open to individuals according to their talents and education — "every citizen the chance of joining the class of civil servants" (§291). The Executive is responsible for interpreting and administering the law determined by the Legislature. But the Executive and its lower ranks in the Civil Service 'oversee' the real work which is done *within* Civil Society by the Public Authorities and the Courts.

This apparent *duplication* of functions between the State and Civil Society has deep roots in mediaeval society, in which agents of the King (*thegns* in old England) supervised Courts distributed around the land. Positions in the Corporations and Public Authorities would be "a mixture of popular election by those interested with appointment and ratification by higher authority" (§288). In mediaeval times, this entailed a continuous struggle over control of these Civil Society organisations, but the concept of Constitutional Monarchy suggests that the moment of appointment from above wanes as the stability and cultural level of Civil Society and the State matures, though in reality, this has not transpired.

The people working in the Executive branch of the State and in the Courts and Public Authorities are members of the 'universal class' – the class of civil servants, and Hegel, perhaps naïvely, presumes that the character and motivation of these individuals will be shaped by their commitment to the universal interest.

### § 4. The Legislature, the Estates and the classes of Civil Society

Exactly how the Houses of the Legislature and the Estates are to be structured and operate is left open by Hegel and is somewhat unclear. All we have to go on is the real models that were available in the Europe of his times and earlier.

The Estates were a political institution of mediaeval times which survived into the 19th century. The constitution of the Estates varied from country to country and century to century, but generally there were three: the nobility (which was initially the only Estate, but referred to in the plural in reference to the various fiefdoms of the nobility), the bourgeoisie (generally organised via the Corporations) and the clergy, with its own hierarchies. In Hegel's case, the clergy are excluded, so there are just two Estates. The civil servants were not included in the Estates and nor is there a precedent for that.

The Estates differ from the classes of Civil Society because the Estates are *political* entities, generally convened periodically to deliberate on political issues and appoint

representatives to the Legislature or to petition the King. The classes however are not formal organisations at all but are constituents and products of the System of Needs and Labour, reproduced by the Family. The Estates appear to be a duplication of the classes of Civil Society, but this is not really the case – the Estates are the projection of the classes on to political life.

Hegel never spells out the relation of the Estates to the Houses or the gives us any hint as to how the Legislature should operate or how the two Houses interact with each other. It seems though that each House elects representatives to one of the Houses (much as the House of Lords and House of Commons operated in Britain), each of the Houses determined laws by their own processes and then came to a three-way consensus with the Executive, to produce an Act for the Crown's signature. Hegel is at pains to avoid a situation where the Legislature could come into direct conflict with the Executive, and dividing the Legislature into two Houses seems to be a device to secure this.

### §5. The Young Marx vs. Hegel on the State.

In the Spring of 1843, the young Karl Marx made critical notes on the section of Hegel's *Philosophy of Right* on the State (although he references earlier sections in the course of his commentary), abandoning the work in disgust at §313, about where we have got to in this commentary just now.

At this point in his life, Marx read Hegel as a Feuerbachian – that is, criticising Hegel for inverting the subject-predicate relationship, and most of his commentary is rather tiresome ridicule of Hegel's idealistic forms of argument and expression. Marx regarded almost everything Hegel said as a rationalisation of the status quo. Most of the substantive criticisms he made have been at least mentioned here, but some were more significant than others. Criticisms worth making particular note of are as follows:

Marx observes how in Hegel's scheme, the State reinforces already existing hierarchy and privilege in civil society and further that there is a 'civil society' within the civil service:

“The *corporations* are the materialism of the bureaucracy, and the bureaucracy is the *spiritualism* of the corporations. The corporation is the bureaucracy of civil society, and the bureaucracy is the corporation of the state. In actuality, the bureaucracy as civil society of the state is opposed to the state of civil society, the corporations. Where the bureaucracy is to become a new principle, where the universal interest of the state begins to become explicitly a singular and thereby a real interest, it struggles against the corporations as every consequence struggles against the existence of its premises. On the other hand once the real life of the state awakens and civil society frees itself from the corporations out of its inherent rational impulse, the bureaucracy seeks to restore them; for as soon as the state of civil society falls so too does the civil society of the state.” (Marx, 1843, p. 45)

This passage is followed by an extended criticism of bureaucratism and hierarchy, upon which Hegel relies for the rationality of the State – the civil servant “is like a hammer *vis-à-vis* those below he is like all anvil in relation to those above” (p. 53). And the civil servant's “office is indeed his substantial situation and his bread and butter. Fine, except that Hegel sets direct education in thought and ethical conduct against the mechanism of

bureaucratic knowledge and work! The man within the civil servant is supposed to secure the civil servant against himself” (p. 53).

Marx criticises the mediating role Hegel gives to the Estates:

“The Estates preserve the state from the unorganised aggregate only through the disorganisation of this very aggregate.

“At the same time, however, the mediation of the Estates is to prevent the isolation of the particular interests of persons, societies and corporations. This they achieve, first, by coming to an understanding with the interest of the state and, second, by being themselves the political isolation of these particular interests, this isolation as political act, in that through them these isolated interests achieve the rank of the universal.

“Finally, the Estates are to mediate against the isolation of the power of the crown as an extreme (which otherwise might seem a mere arbitrary tyranny). This is correct in so far as the principle of the power of the crown (arbitrary will) is limited by means of the Estates, at least can operate only in fetters, and in so far as the Estates themselves become a partaker and accessory of the power of the crown.” (p. 68)

Marx claims that this arrangement is aimed at *preventing* the people from forming an organised will, rather than at giving the people a means of *expressing* that will.

Marx rejects with contempt Hegel’s ‘deduction’ of primogeniture and monarchy:

“Hegel has accomplished the masterpiece: he has developed peerage by birthright, wealth by inheritance, etc. etc., this support of the throne and society, on top of the absolute Idea.” (p. 74)

and further rejects Hegel’s dismissal of a ‘representative constitution’, i.e., universal suffrage. In considering the complex mediations Hegel creates between the various civil powers, Marx comments in exasperation:

“The sovereign, then, had to be the middle term in the legislature between the executive and the Estates; but, of course, the executive is the middle term between him and the Estates, and the Estates between him and civil society. How is he to mediate between what he himself needs as a mean lest his own existence become a one-sided extreme? Now the complete absurdity of these extremes, which interchangeably play now the part of the extreme and now the part of the mean, becomes apparent. They are like Janus with two-faced heads, which now show themselves from the front and now from the back, with a diverse character at either side. What was first intended to be the mean between two extremes now itself occurs as an extreme; and the other of the two extremes, which had just been mediated by it, now intervenes as an extreme (because of its *distinction* from the other extreme) between its extreme and its mean. This is a kind of mutual reconciliation society. It is as if a man stepped between two opponents, only to have one of them immediately step between the mediator and the other opponent. It is like the story of the man and wife who quarrelled and the doctor who wished to mediate between them, whereupon the wife soon had to step between the doctor and her husband, and then the husband between his wife and the doctor.” (p. 87)

In the course of a long diatribe against Hegel’s obsession with mediation, Marx says:



“Actual extremes cannot be mediated with each other precisely because they are actual extremes. But neither are they in need of mediation, because they are opposed in essence. They have nothing in common with one another; they neither need nor complement one another. The one does not carry in its womb the yearning, the need, the anticipation of the other.” (p. 88)

### Hegel, Marx and universal suffrage

Hegel argues consistently for highly mediated forms of representation and against universal suffrage. Marx responds by pointing out:

“The question whether all as individuals should share in deliberating and deciding on political matters of general concern is a question that arises from the separation of the political state and civil society.” (p. 118)

and

“It is not a question of whether civil society should exercise legislative power through deputies or through all as individuals. Rather, it is a question of the extension and greatest possible universalisation of voting, of active as well as passive suffrage. This is the real point of dispute in the matter of political reform, in France as well as in England.”

Marx does not proffer solutions to this problem, but makes an extended criticism of Hegel which brings out the contradictions entailed in his construction of representative politics.

Without meeting the problems raised by Marx, Hegel makes a powerful argument against universal suffrage.

“As for popular suffrage, it may be further remarked that especially in large states it leads inevitably to electoral indifference, since the casting of a single vote is of no significance where there is a multitude of electors. Even if a voting qualification is highly valued and esteemed by those who are entitled to it, they still do not enter the polling booth. Thus the result of an institution of this kind is more likely to be the opposite of what was intended; election actually falls into the power of a few, of a caucus, and so of the particular and contingent interest which is precisely what was to have been neutralised.” (§311n.)

According to Hegel, the deputies in the Legislature have to do with the various *branches* of society, and the electorate must not be seen as an agglomeration of atoms (§311). Deputies should represent the various *groups* in society and give them equal weight. Universal suffrage on the contrary requires every individual to cast their vote privately, as an isolated atom.

Hegel believes that the public must be educated in national affairs, and he sees the assemblies of the Estates as the means of achieving this, while political discussion “at his fireside with his wife and his friends” can never be better than “building castles in the air.” Participation in assemblies is essential for political education, and this can only be achieved in the bodies mediating between the associations of civil society and the Legislature.

‘Public opinion’ is the name given to “individuals ... in their having and expressing their own private judgments, opinions, and recommendations on affairs of state” (§316). Public opinion is therefore “a repository of genuine needs and correct tendencies of

common life” but “infected by all the accidents of opinion, by its ignorance and perversity, by its mistakes and falsity of judgment,” and Hegel quotes Goethe:

‘the masses are respectable hands at fighting, but miserable hands at judging’.

The remainder of the *Philosophy of Right* covers sovereignty, external relations, war, international law and World History. Consistent with my focus on those passages and works which I believe are of especial interest to social movement activists, I will leave it to the avid reader to explore the whole of the *Philosophy of Right* on their own.

